

**KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING
(KS-CPOST)**

**COMMISSION MEETING MINUTES
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March 23, 2004**

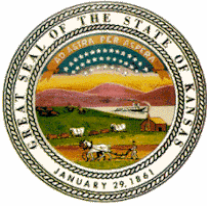
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Attachments

| <u>NUMBER</u> | <u>DESCRIPTION</u> |
|---------------|--|
| 1 | Commission Media Release, dated March 15, 2004. |
| 2 | Article entitled "Police Officer Truthfulness and Brady Decision" from the October 2003 issue of the <i>Police Chief</i> magazine. |
| 3 | Letter from Michael D Gammage, retired ATF Agent, dated March 11, 2004, concerning the William Dempsey matter. |
| 4 | Diagram of Collins Building |
| 5 | District Court Docket Fee Income. |
| 6 | Municipal Court Docket Fee Income. |
| 7 | Senate Bill 432 |
| 8 | Example 1 -- Draft - Notice of Termination or Status Change |
| 9 | Example 2 -- Draft - Notice of Termination or Status Change |
| 10 | Example 3 -- Draft - Notice of Termination or Status Change |
| 11 | "Former Baldwin officer recertified, <i>Baldwin City Signal</i> , 2/26/04 |
| 12 | KSA 74-5606, Creation of Training Commission |
| 13 | Resolution Approving and Authorizing New Rule in the Student Code of Conduct: Failure to Participate |
| 14 | Student Code of Conduct: Failure to Participate |

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**KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING
(KS•CPOST)**

**COMMISSION MEETING MINUTES
March 23, 2004**

Welcome and Introduction of Guests

Chairperson Darrell Wilson called the meeting to order at 10:30 AM at the Kansas Law Enforcement Training Center (KLETC), Hutchinson, Ks.

Members present were: Chairperson Darrell L Wilson, Lt Colonel Same F Breshears, Chief James Braun , Chief Ray D Classen, Chief Lee Doehring, Lieutenant Joe T Gimar, Sheriff James F Jarboe Jr, Sheriff Bob G Odell, Superintendent William R Seck, and Sheriff Gary E Steed. Not present were County Attorney David L Miller and Director Larry D Welch.

Also present were Assistant Attorney General (AAG) Lee Davidson,¹ Commission Counsel Kyle G Smith and Special Investigator Lanny Grosland.

Representing the University of Kansas Continuing Education were Dean JoAnn A Smith, KLETC Director Ed H Pavey (ex-officio Commission member), KLETC Associate Director Ron Gould, KLETC Assistant Director Dave Warry, KLETC Specialized Training Manager Jack Leon, KLETC Legal Counsel Darin L Beck, and KLETC Executive Secretary Lisa Webster.

Chairman Wilson welcomed the newest member of the KLETC staff, Deputy Assistant Director Mark Damitio. His areas of emphasis at KLETC are in Continuing and Distance Education. Mr. Damitio served eleven (11) years with the Kent, Washington Police Department. He worked for eight (8) years with the Washington State Criminal Justice Training Commission, beginning as an Assistant Training Coordinator and ending as Division Manager for Advanced and Specialized Training. He spent seven (7) years as the Deputy Director of the New Mexico Law Enforcement



MARK DAMITIO

¹ AAG Davidson was not present during the morning session of the meeting.

Academy. Mr. Damitio has a bachelor's degree in Society and Justice from the University of Washington, and is a graduate of the FBI Northwest Law Enforcement Command College.

Tina Wisnosky, an intern from Wichita State University working on her Master's degree was also introduced as a guest during the morning session.

Approval of Minutes of Last Meeting

The Chairperson entertained a motion to approve the Minutes of the November 18, 2003, Commission meeting, which was moved by Sheriff Bob G Odell and seconded by Chief Ray D Classen. The motion carried.²

Report of Special Investigator

Special Investigator Lanny K Grosland provided the following documents to Commission members:

Commission media release, dated March 15, 2004;³

Article entitled "Police Officer Truthfulness and the Brady Decision" from the October 2003 issue of the *Police Chief* magazine;⁴ and

Letter from Michael D Gammage, retired ATF Agent, dated March 11, 2004, concerning the William Dempsey matter.⁵

Report of Assistant Attorney General

AAG Lee J Davidson advised they did not have any pending cases open. He declined filing two (2) cases that the Commission's Investigative Committee sent to the Attorney General's Office. Those were "hold-over" cases from the previous administration.

² Director Larry D Welch subsequently reported there were errors on pages 17 and 19 of the November 18, 2003, minutes regarding his comments on "Background Investigation Requirements" and "Concerns Regarding Disciplinary Actions." The following appropriate changes were made. The last sentence in the second paragraph on page 17 was changed to read: "He also pointed out Kansas was not a POST state and most smaller agencies could not afford to conduct complete background investigations." The last sentence in the first paragraph on page 19 was changed to read: "There have been times when the Chairman, nor the Vice-Chairman, could not answer a question if the media had called."

³ Atch #1

⁴ Atch #2

⁵ Atch #3

Recently they had two (2) hearings where the Hearing Committee has issued rulings. In addition there were three (3) defaults and one (1) voluntary surrender of law enforcement officer certification.

Report of Director Ed H Pavey

Collins Building and Property Acquisition

Through the University of Kansas and the Board of Regents, KLETC has acquired the Collins office building and surrounding land which totals 11 acres. At the conclusion of the meeting, a tour was taken of the new building. Copies of the floor plan were distributed to the group. Dan Link, Architect, and Professional Engineering Consultants of Wichita are working on this project. The project budget is \$240,000 to renovate a portion of the building to create three classrooms and bring it into ADA compliance. The remaining portion of the building will house KLETC administrative offices, and will not require renovation, but rather a "facelift" of existing facilities. The project will be put out for bid in April or May, with construction to begin in mid to late summer, and completion expected for late fall.

This will give KLETC the expanded capacity to conduct two simultaneous classes with up to 60 students in each class, pending budget approval to hire four additional instructors.

A diagram of the Collins Building was provided to Commission members.⁶

Maintenance Update

Work was recently completed on tuckpointing the dormitory roof. High winds caused the tuckpointing to come loose, allowing rain water to run underneath. The cost was \$8,000. An additional project will soon start to repair water damage around the window sills in the dorm. Bids have been let to get this repaired. Cost estimates for this repair work are between \$18,000 and \$30,000. We are working with KU Design, Construction and Management on this.

Staff Update

Director Pavey welcomed Darin Beck from his year-long active military duty.

Director Pavey introduced newly hired Deputy Assistant Director, Mark Damitio. Mark gave a brief summary of his background in law enforcement. This included his start as an officer with the Kent,

⁶ Atch #4

Washington, Police Department, then to the Washington State Criminal Justice Training Commission where he moved up through the ranks to the position of Division Manager for Advanced and Specialized training. Mark then was hired by the New Mexico Department of Public Safety as the Deputy Director of the Training and Recruiting Division of the New Mexico Law Enforcement Academy. Mark and his wife now live in Andale.

A new registrar and new training assistant have recently been hired. Lori Burch is the new registrar, and Lori Houtman is the new training assistant. KLETC will also begin a hiring process to fill a vacancy for an assistant maintenance employee.

Class Update

KLETC is currently conducting two basic training classes. One has 72 officers, the other has 24.

KLETC just completed Reciprocity class #20. Col. Bill Seck of the Kansas Highway Patrol is a graduate of that class and is now a certified Kansas law enforcement officer.

KLETC has now been using the 560-hour curriculum for a year and a half. Associate Director Gould explained the curriculum is now being reviewed, and some objectives are being rewritten for clarity. Feedback from the satellite academies has also resulted in some changes being made to the curriculum.

Director Pavey advised that he would like to start taking a few minutes during each commission meeting to showcase a particular training area. At this meeting, Assistant Director Dave Warry gave a short presentation on defense tactics, specifically the proper use of OC spray. A short video was shown on the training KLETC students receive on OC spray, during which they themselves are sprayed with OC and must continue to subdue an attacker even after being sprayed.

Following a fatal shooting of a suspect by a Wichita Police officer, two KLETC instructors were interviewed on-camera by Channel 3 news regarding use of force. A video was shown of the news interview with KLETC instructors Dan Lehr and Dan Breci.

Admission delay continues to be an issue. The July 12 class is not full yet, but it is anticipated it will fill up quickly. The September 7 class (24 persons) has just been established, and we now have 18 students who will move into that from a previously established November class. There is still a need to hold simultaneous classes to handle the admission delay issues. Addition of the 24 person classes has been necessary to handle the issue up to this point. However, our goal is to hold two simultaneous classes with up to 60 persons in each, and start a new class every 7 or 8 weeks.

Central Registry Update

Legal Counsel Darin Beck reported the first delinquency list which was run for the prior training year had 89 persons on it. All have now been resolved either through extensions or by the officers getting the training they needed.

On-Line Reporting

The option of reporting training on-line rather than by sending in paper documentation has been available for some time now. KLETC now have 43 of the 45 agencies with greater than 25 officers submitting training on-line. The 158 agencies who are submitting training on-line represent 5,222 officers.

PriMedia Grant

The Department of Justice awarded us a grant of \$993,000 to allow up to 160 law enforcement sites across Kansas, and up to the same amount of fire department sites to receive televised training. Associate Director Gould advised that the KU Center for Research is the department working with the KU Continuing Education division on this project. We were asked by Senator Brownback's office to work with this grant. The final contracts should be signed this week. We have received the funding. Kansas and New Hampshire are the test sites for this project, and depending on the results, it may be expanded nationwide. Ron Jackson, retired Newton Police Chief, has been hired to coordinate this project.

Docket Fee Income

We are watching seasonal fluctuations in docket fee income. We will soon be preparing a white paper for Dr. Smith and the university, based on cash flow projections, and we will soon be seeking additional funding through the legislature. At some point, we will be asking the commission for their support in this endeavor.⁷

Commission Member Reappointments

Currently, five commission member positions are up for reappointment. This includes the three police chief positions, the Kansas Peace Officer position, and the chair position. Director Pavey has been in touch with the governor's office, working with Melissa Gregory. She has asked Director Pavey to submit information to her. Director Pavey asked that if any of the members are seeking reappointment, they should contact their respective associations that make the recommendations to the governor. The actual expiration date on these appointments is June 30.

⁷ Atch #5 & #6

Other Matters

On March 16, Director Pavey attended the funeral of Maynard Brazeal's wife, Connie. She passed away after a long battle with cancer.

August 2 is the date of the next KLETC golf tournament. Dave Warry is coordinating this event.

The 2004 sheriff's orientation school will be held in December. Immediately following the November election, all county clerk's offices will be contacted to see if they have a new sheriff so the list can be prepared and the letters can be sent out to advise them to be here for the new sheriffs school. A letter was sent out last year to all the county clerks advising them of the \$800 - \$850 fee for this school. The last new sheriffs school we held cost about \$30,000, so the decision was made to start charging a fee for this school.

The 2004 Kansas Police Administrators Seminar is being planned. We are also working with the sheriffs' association on the 2005 SAMS conference. We are working with the U.S. Attorney's Office to develop a regional take-on-the-road seminar on officer survival, specifically regarding daily stress of the job.

The KLETC store has gone to a computerized cash register and inventory system. This system includes a bar-code scanning system, which has greatly reduced the amount of time students have to stand in line to make their purchases. Director Pavey's assistant, Lisa Webster, and Mark Bomgardner, Technology Specialist, as well as several other staff members worked hard to bring this new system on-line.

The May issue of the Kansas Peace Officers Association magazine will feature KLETC on the front cover, with an article about the expansion to the Collins' building.

Old Business

Status Update -- Senate Bill 432 (Required Agency Reporting of Training Act Violations and Amendment to KSA 21-4619 [Expungement of Records])

Commission Counsel Kyle Smith noted the most recent version of Senate Bill 432 had been provided to Commission members.⁸ The Commission has areas of interest with this bill:

- Giving the Commission access to expunged records; and
- The "gypsy cops" issue that creates a requirement that agencies report to KLETC the reason for the termination of an officer.

⁸ Atch #7

The provided Senate version went through without any problem. The Senate did add the provision that the information would also be available to the terminated officer.

After it went to the House, Director Ed Pavey and KLETC Legal Counsel Darin Beck asked Smith if an immunity clause for the administrator completing the form and a provision for the terminated officer to respond could be added to the bill. Smith advised he discouraged them to add those amendments as it would put the bill back to a conference committee

When the bill got to the House, Representative Ward Lloyd from Garden City introduced an amendment to allow a citizen of the United Kingdom, who is employed by the Garden City Police Department, to become a Kansas law enforcement officer. They also added amendments which would limit the termination information only to law enforcement agencies and the concerned officer and an immunity provision for administrators that submit information. The House also added a provision for the Department of Corrections (DOC) that would also include officers as defined under KSA Chapter 22.

The bill is now back to a conference committee.

Director Pavey reported KLETC is in opposition to the addition of DOC officers being included in "termination reporting" portion of the bill until a fiscal note is available.

The Chairman asked members what their position was in regard to the amendments to the bill added by the House. After a discussion it was the consensus of the Commission that they were also opposed to addition of DOC officers in the "termination reporting" provision of the bill.

Smith reported he would convey the Commission's position to the conference committee. He will provide Lanny Grosland with a copy of his communication to members of the conference committee for distribution to Commission members.

New Business

Recognition of Past Commissioner Ron Pickman

Chairperson Darrell Wilson presented former Commission member Ron Pickman a plaque for his nine (9) years of service on the Commission from March 1, 1994, to June 30, 2003. He was appointed to the Commission while the Chief of Police at Goodland and continued after his promotion to Director of Police and recently as City Manager at Goodland.

Pickman stated he enjoyed the time he served on the Commission and noted it was one of the most prestigious positions he held in

his career. He reported the Commission fills a critical need in Kansas and is essential to the professionalism of law enforcement. Speaking now as a city manager, he sees the need more now than he did before as a police chief.



RON PICKMAN (left) and DARRELL WILSON

[Note: The Commission recessed for lunch at 11:25AM and returned at 12:05PM.]

Draft Status Change Form (In preparation of passage of SB 432)

Director Ed Pavey advised Senate Bill 432 implies the KLETC Director will develop a form for the reporting of officers who are terminated. KLETC Legal Counsel Darin Beck has been working to develop drafts of forms to capture the required information.

Beck reported as clear as the bill is, there were several different approaches they could take. He presented to the Commission three (3) examples for their review.⁹

Special Investigator Lanny Grosland briefed the Commission on the process he currently uses when an agency reports a termination for cause. Grosland indicated he would prefer a form in which the reporting agency specified whether or not the terminated officer violated a provision of the Training Act, such as the moral character standard.

Director Pavey noted that the form would not be used solely for Commission actions, but would also be used to provide information to prospective employers.

Changing of Commission's Name and Acronym

Director Pavey provided Commission members with an article from the *Baldwin City Signal* entitled "Former Baldwin Officer Recertified."¹⁰ He advised the item was just one example where KLETC was credited with revoking the law enforcement officer certification of an individual. Over the past several years there has been some confusion over the acronym for the Kansas Law Enforcement Training Center, KLETC, which is sometimes associated with the Kansas Law Enforcement Training Commission. Pavey stated they have tried to keep a fine line between the Training Center and Training Commission. The Training Center is the

⁹ Atch #8, #9, and #10.

¹⁰ Atch # 11

education and training unit and central registry for the state, while the Commission is the regulatory body that has that responsibility by statute.

Director Pavey reported the statutory language states, "There is hereby created the *Kansas law enforcement training commission on peace officers' standards and training...*"¹¹ (italics added)

It was Pavey's suggestion, which will be open for discussion, that the Commission re-title their identifying name as the Kansas Commission on Peace Officers' Standards and Training or Kansas CPOST (KS•CPOST), just as the statute identifies the Commission.

He noted it would take a natural progression of two to three years for the name to take. In the meantime the letterhead could be changed to reflect that title, all news releases would reflect that name and press release could be sent out to all media and law enforcement agencies noting the name change.

Chief Lee Doehring pointed out using the name POST is synonymous with the term used by other states for their commissions on standards and training.

Chief Ray Classen made a motion that the Commission be identified with the acronym KS CPOST (Kansas Commission on Peace Officers' Standards and Training). The motion was seconded by Lt Joe Gimar. The motion carried.

Student Rules and Regulations: Adoption of Non-Participation Rule

Director Pavey advised that the Director of Police Training, by statute, could adopt rules for student conduct and behavior, however, could only do so with the consultation and approval of the Commission.

Associate Director Ron Gould reported that problem they were going to discuss had existed for some time. The problems are two-fold and stem from not having established entry and exit standards for Training Center programs. Because of that KLETC gets officers in for training who are not physically fit, or maybe it is just their attitude, and they cannot participate in a program. As an example, during some of the physical activities an officer may simply stand there and do nothing. Currently KLETC does not have a lot of power to do much with such a student because there is not an exit standard for physical participation. That is the reason for the creation of the rule which is being presented for consideration. As an example, if they have a student/officer who is simply standing and not participating in morning physical activities and the instructor directs that student to take part, they should be required to participate in

¹¹ KSA 74-5606

the program. Currently there is no rule that says they have to take part in the physical activity. KLETC has academic rules and a number of other rules, but no rules that requires participation in physical activity. Of course if the student does participate after being directed to do so by the instructor, that is the end of the problem and no further action would be taken. If the student should fail to participate, KLETC will follow the routine procedures or due process just as is done for other rule violations.

Director Pavey stated the long term goal is to go back to the Kansas Administrative Regulations (KARs) and "gutting them out" as they pertain to KLETC. They will then developing a regulation that says in order to graduate from any of the certified programs in the state a student/officer has to follow all the rules and regulations as adopted by the Director of Police Training and approved by the Commission. That way they can have certain degrees of participation or standards that have to be met. That is currently not in the KARs.

Director Pavey introduced a "Resolution Approving and Authorizing New Rule in the Student Code of Conduct: Failure to Participate"¹² and a "Failure to Participate"¹³ rule for consideration by the Commission. Lt Colonel Sam Breshears made a motion to approve the resolution and rule, which was seconded by Chief Lee Doehring. The motion carried.

Reciprocity (KSA 74-5608a[a] and KSA 74-5608a[b])

Director Pavey wanted to inform the Commission that by statute (KSA 74-5608a[a]) he could review the prior basic training of an officer from another state and if the officer was certified in another state and the prior training was equal to or exceeds the Kansas standards, he can grant conditional reciprocity and waive basic training requirements in Kansas.

He reported there is a trend for individuals from other states to attend and complete an academy program "self sponsored" (without being employed by an agency) and are not certified. That individual could come to Kansas and become employed by a Kansas agency. Under another statute (KSA 74-5608a[b]) Pavey can review the individual's prior training and if it meets or exceeds Kansas standards, he can grant reciprocity. He has been doing that also so the individual who has received formal basic training, yet has not taken that state's licensing exam, does not have to attend another basic training course.

Pavey noted he does not need Commission approval to do that, but wanted to give members a "heads-up" just in case questions arise.

¹² Atch #13

¹³ Atch #14

The statutes granting Pavey that authority are:

74-5608a. Certification of persons completing training in other jurisdictions; waiver of courses.

(a) The director may, in the exercise of discretion, award a certificate attesting to the satisfactory completion of a basic course of instruction to any person who has been duly certified under the laws of another state or territory if, in the opinion of the director, the requirements for certification in such other jurisdiction equal or exceed the qualifications required to complete satisfactorily the basic course of instruction at the training center.

(b) The director may waive any number of the hours or courses required to complete the basic course of instruction at the training center, 80 hour part-time school, reciprocity school or for the hours required for annual continuing education for any person who, in the opinion of the director, has received sufficient training or experience that such hours of instruction at the training center would be, unless waived, unduly burdensome or duplicitous.

Administrative Disciplinary Hearings

Chairman Darrell Wilson wanted to discuss disciplinary hearings briefly so members could be thinking about the subject for future discussion when the entire Commission was present.

He advised under the current process when a matter comes to the attention of the Commission investigator, the issue is brought to the Commission's Investigative Committee (CIC). With CIC approval the matter is investigated and if approved by the CIC is referred to the Commission's Hearing Committee for disciplinary action. While he is well informed, Wilson currently does not have any role in the decision to suspend or revoke an officer's certification, nor does a majority of the Commission have a part in that determination. He has been looking at the concept of having the entire Commission becoming involved in disciplinary hearings. He realizes that means the Commission will have to meet more frequently.

AAG Lee Davidson advised currently, since a three member Hearing Committee is utilized, an appeal of a disciplinary decision could be made to the entire Commission or directly to a District Court. If the entire Commission acted as the hearing body, all appeals would go directly to a District Court.

Chief Ray Classen stated this matter had been discussed in the past and the reason a Hearing Committee has been used was because they felt it was not practical to assemble the entire Commission for each disciplinary hearing. In the past the Commission also agreed they could rely on the judgment of the Hearing Committee to act for the entire Commission. Classen noted he was not

saying it had to stay that way, just that was the reason for the current process.

Wilson reported he did not want to take any action on the topic at this time and just brought the matter up so members could be thinking about what they should do in the future.

Record of Commission Meetings

Special Investigator Lanny Grosland advised the Commission meetings are now tape recorded and the recordings are used for the preparation of the minutes. He wanted the Commission to give some consideration to also using a court reporter in addition to the tape recordings to make a permanent record of meetings. Minutes would still be prepared, however, the transcript of the court reporter would be used in addition to the recordings. Having a verbatim written record of each meeting would be the advantage of using a court reporter.

He contacted a local court reporter to get an idea of the cost. They charge about \$200.00 per day, which is a standard rate, and she would have to block out the entire day for a meeting like this. In addition, there is a charge of \$3.50 per page for the transcript. She was guessing a Commission meeting would be equivalent to a full day in court, which normally runs to about fifty (50) pages. The estimated total cost per meeting would be around \$375.00 to have a transcript prepared.

Chief Lee Doehring questioned the need for a written transcript. Director Ed Pavey noted a great deal of time is taken by the investigator and KLETC's Executive Secretary in the preparation of the detailed minutes. He felt it would be wise to try using a court reporter for a year and if it did not work out, the idea could be discontinued. The funds for a court reporter would come out of the KLETC budget.

Chief Doehring also questioned if the present detailed minutes were needed since there were tape recordings of the meetings. Director Pavey advised the current detailed minutes are very beneficial when he wanted to look at an issue discussed in the past.

Grosland pointed out it might not be practical to use a court reporter because members often talk over each other and she may not be able to identify who is talking. The court reporter he talked to was advised we would probably continue making a tape recording and she did not have a problem with that. The court reporter Grosland talked with had never reported on a meeting such as this and it might be quite a task.

Associate Director Ron Gould advised if a court reporter was used the meetings would have to be more structured.

Grosland also stated one of his goals is to index the minutes so that topics discussed in the past could be located in a more timely manner without having to scan through numerous minutes.

Chairman Wilson asked if a motion was needed to use a court reporter and it was agreed since the funds would come out of the KLETC budget, a motion was not necessary. Director Pavey advised they would try it at least one time.

Tour of Collins Office Building

A tour of the Collins office building was conducted after the meeting adjourned.



COLLINS OFFICE BUILDING



COMMISSION MEMBERS ON TOUR OF COLLINS OFFICE BUILDING

Other Miscellaneous Commission Concerns

There were no miscellaneous Commission concerns for discussion.

Next Meeting Date

It was suggested the next meeting should be conducted on the day after the KLETC golf tournament, which would be August 3, 2004 (Tuesday).

Adjournment

The meeting adjourned at 3:00PM.